IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CIVIL APPLICATION NO. 6995 OF 2006
IN
MISC. CIVIL APPLICATION ST. NO. 16390 OF 2006
IN
FIRST APPEAL NO. 132 OF 2001

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's orders

CORAM : J.P. DEVADHAR AND
B.P. DHARMADHIKARI, JJ.
APRIL 30, 2007.

By consent of the parties, we have heard them today on application for condonation of delay. The applicant, who appears in person states that 94 days delay has occasioned because he had no notice of dated 14.6.2006 when the appeal was listed before the Division Bench. He argues that earlier he used to receive notices from the Registry of this Court and when he came to Nagpur for some other work on 12.10.2006, he made enquiry about the pending appeal and then only he got knowledge about dismissal of appeal in default.

Shri Bhandarkar, learned counsel for

the respondent points out the previous conduct of present applicant to contend that he is only interested in prolonging the matter and he is trying to defeat the orders passed by Gujarat High Court by which Civil Suit between the parties has been expedited. He states that the applicant has to show that he complied with the provisions of Bombay Appellate Sides Rules and therefore the Registry ought to have issued him a notice on 14.6.2006.

After hearing parties, we are satisfied that the applicant cannot be said to be negligent and also it cannot be said that he has acted malafide. It is no doubt true that there are no proper pleadings pointing out all this but we are making this concession as there are just grounds and as the applicant is appearing in person but subject to payment of cost of Rs.10,000/- to present respondent within a period of one week from today. If the costs are so deposited with the Registry of this Court, the respondent is permitted to withdraw the amount and the delay shall stand condoned. The consequential order dismissing the First

Appeal on 14.6.2006 shall stand recalled and MCA St. No.16390 of 2006 shall stand granted. If the appeal is restored back to file, the same be listed for further consideration on 6th June 2007.

The appellant as also respondent to note that no separate notice of said date shall now be issued to them and the appeal may be disposed of finally if it is convenient to the Court on said date.

JUDGE **JUDGE**

*GS.